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STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

In the matter of:

CHINA AHEAD TRUCKING, INC.

TPID NO: 1603635-01

RESPONDENT.

STATEMENT OF ISSUES
FOR DENIAL OF WASTE AND USED TIRE
HAULER REGISTRATION AND WASTE TIRE
HAULER ADMINISTRATIVE PENALTIES,
PUBLIC RESOURCES CODE
SECTION 42950, ET SEQ.

AGENCY NO: 2012-011134-ADC

INTRODUCTION

This Statement of Issues for Denial of Waste and Used Tire Hauler Registration and Waste Tire Hauler Administrative Penalties is issued by the Department of Resources Recycling and Recovery (CALRECYCLE) to CHINA AHEAD TRUCKING, INC. (RESPONDENT) seeking the denial of RESPONDENT's Waste and Used Tire Hauler Registration (Registration) for five years and six thousand five hundred dollars (\$6,500.00). The California Integrated Waste Management Board (CIWMB) is now the California Department of Resources Recycling and Recovery (CALRECYCLE). CALRECYCLE succeeded to CIWMB's authority on January 1, 2010, pursuant to Public Resources Code (PRC) section 40401(a)(1). Section 42850(b) of the PRC authorizes CALRECYCLE to issue a complaint to any person that may be administratively liable. This complaint is so issued based on the following facts:

STATEMENT OF FACTS

1. CALRECYCLE has authority to regulate and conduct enforcement actions regarding Waste and Used Tire Haulers (hauler) within the State of California under PRC section 42950 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. On October 9, 2012, the CALRECYCLE Tire Hauler Compliance Unit received a Waste Tire Hauler Registration Application for the 2013 calendar year from RESPONDENT.

3. Pursuant to PRC section 42960:

(a) [CALRECYCLE] may suspend, revoke, or deny a waste and used tire hauler registration for a period of up to three years, by filing an accusation in accordance with the procedures of Sections 11505 to 11519, inclusive, of the Government Code, if the holder of the registration does any of the following:

(1) Commits more than three violations of, or fails to comply with any requirements of, this chapter [19] or Chapter 16 (commencing with Section 42800), or the regulations adopted pursuant to those provisions, within a one year period. . . .

(b) [CALRECYCLE] may suspend, revoke, or deny a waste and used tire hauler registration for a period of three years to five years, or may suspend, revoke, or deny a waste and used tire hauler registration permanently, in accordance with the procedures specified in subdivision (a), under any of the following circumstances: . . .

(2) The hauler has been previously fined pursuant to this chapter [19] or Chapter 16 (commencing with Section 42800). . . .

I. Denial of RESPONDENT's hauler registration is appropriate because RESPONDENT committed more than three violations of, or failed to comply with requirements of Chapter 19 of the PRC or the regulations adopted pursuant to those provisions within a one year period.

4. Pursuant to PRC section 42951(a), "Every person who engages in the transportation of waste or used tires shall hold a valid waste and used tire hauler registration, unless exempt as specified in Section 42954."

5. Pursuant to PRC section 42952(a), "Except as provided in Section 42954, any person engaged in transporting waste or used tires shall comply with all of the following requirements: (a) The person shall be registered as a waste and used tire hauler with [CALRECYCLE]."

6. Pursuant to 14 CCR section 18454(c), "The initial waste tire hauler registration is valid form [sic] the date of issuance of the following year."

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1 7. Pursuant to 14 CCR section 18454(d), "The waste tire hauler is not authorized to haul
2 used or waste tires after the January 1 expiration date unless the waste tire hauler has applied to renew
3 the waste tire hauler registration prior to the expiration and has received the Department issues
4 renewal registration card(s) and vehicle decal(s)."

5 8. PRC section 42961.5 requires the submission of manifests, also known as
6 Comprehensive Trip Log (CTL) forms, to CALRECYCLE, documenting the pickups and deliveries of all
7 waste and used tires, including to or from the hauler's own site.

8 9. Pursuant to 14 CCR section 18456.2(b), upon approval of a waste and used tire hauler
9 application, CALRECYCLE shall "issue a [separate] waste and used tire hauler registration card and
10 decal for each vehicle identified in the application." 14 CCR section 18456.2(c) states that
11 "[r]egistration cards and decals are not transferable from vehicle to vehicle. They shall be present in
12 the vehicle to which they were issued." 14 CCR section 18454(f) states, "The registration card and/or
13 decal issued to a specific vehicle are [sic] not transferable from vehicle to vehicle. They shall be
14 present in the vehicle to which they are issued."

15 10. Pursuant to 14 CCR section 18456.2(b), CALRECYCLE shall issue a waste tire hauler
16 registration card and decal for each vehicle identified in the application. "The registration shall be
17 carried in the corresponding vehicle. The deal shall be permanently affixed to the common passenger
18 side, inside lower right hand corner of the windshield before hauling tires for that calendar year." (14
19 CCR § 18456.2(b).)

20 11. RESPONDENT was a registered waste tire hauler for the 2011 calendar year; however,
21 RESPONDENT failed to apply for a waste tire hauler registration for the 2012 calendar year before the
22 January 1 expiration date.

23 12. On January 4, 2012, RESPONDENT, was issued a notification letter from
24 CALRECYCLE stating that their 2011 waste tire hauler registration was cancelled and advising
25 RESPONDENT not to haul waste or used tires.

26 13. On January 10, 2012, CALRECYCLE received a faxed copy of RESPONDENT's Waste
27 Tire Hauler Registration Application for the 2012 calendar year.

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14. On February 6, 2012, Cathy Blair, Inspector with CALRECYCLE, received a photocopy of three (3) Comprehensive Trip Log (CTL) receipts dated January 10 and 11, 2012 from Global Waste Management, Inc., showing pickups of three separate loads of more than 100 waste or used tires, and documented in CTL receipt numbers, 4462082-A, 4462082-C and 4462080-C. These pickups by RESPONDENT were completed when they were an unregistered waste tire hauler during the month of January 2012.

| Comprehensive Trip Log | Violation | Transaction Date | Passenger Tire Equivalents | Facility |
|---------------------------|--|---------------------|----------------------------------|-------------------------------------|
| 4462082-A | Unregistered Tire Hauler, more than 100 waste/used tires | January 10, 2012 | 2,400 | Global Waste Management, Inc. |
| 4462082-C | Unregistered Tire Hauler, more than 100 waste/used tires | January 11, 2012 | 2,400 | Global Waste Management, Inc. |
| 4462080-C | Unregistered Tire Hauler, more than 100 waste/used tires | January 11, 2012 | 2,400 | Global Waste Management, Inc. |

15. During an inspection of Global Waste Management, Inc.'s waste tire facility located at 8430 Rovana Cir., Suite B&C, Sacramento, California, on May 1, 2012, and documented in Waste Tire Survey and Inspection Report (Inspection Report) number I1-1147830, Ajay Sharma, inspector for the Sacramento Environmental Management Department, observed a vehicle belonging to RESPONDENT picking up waste tires from Global Waste Management, Inc.'s waste tire facility. The vehicle did not have a valid 2012 waste tire hauler registration decal affixed to the passenger side of the windshield, in violation of 14 CCR section 18456.2(b).

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1 II. Denial of RESPONDENT's Waste and Used Tire Hauler Registration is appropriate because
2 RESPONDENT has been previously fined pursuant to this chapter.

3 16. On March 8, 2011, CALRECYCLE issued a Decision ordering RESPONDENT to pay a
4 fine in the amount of \$600.00, pursuant to a settlement agreement entered into between
5 RESPONDENT and CALRECYCLE for multiple violations of chapter 19 of division 30 of the PRC.
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7 **ALLEGATIONS OF SPECIFIC VIOLATIONS**
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9 17. CALRECYCLE is requesting the denial of RESPPONDENT's waste hauler
10 registration for 5 years pursuant to PRC section 42960 based on the above-mentioned facts
11 and the following violations:

12 18. On at least three separate occasions between January 10, 2012, and January
13 11, 2012, RESPONDENT violated PRC section 42951(a) and PRC section 42952 (a) by
14 transporting or allowing the transportation of 100 or more waste or used tires without holding a
15 valid 2012 Waste and Used Tire Hauler Registration for the 2012 calendar year.

16 19. On at least one occasion in May 2012, RESPONDENT violated 14 CCR section
17 18456.2(b) by transporting waste or used tires in a vehicle that did not have a valid 2012
18 Waste and Used Tire Hauler Registration decal attached to the lower corner of the passenger
19 side of the windshield.

20 20. CALRECYCLE issued a prior Decision ordering RESPONDENT to pay a penalty
21 amount of \$600.00 for multiple violations of chapter 19 of division 30 of the PRC.
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23 **PENALTIES**
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25 21. CALRECYCLE's authority to assess administrative penalties against RESPONDENT as
26 a waste tire hauler is set forth in PRC section 42962(c), which states:

27 "In addition to the civil penalty which may be imposed pursuant to subdivision (a),
28 the board may impose civil penalties administratively in an amount not to exceed

1 five thousand dollars (\$5,000) for each violation of a separate provision or for
2 continuing violations for each day that violation continues, on any person who
3 intentionally or negligently violates any permit, rule, regulation, standard, or
4 requirement issued adopted pursuant to this chapter. . ."

5 Under this section, RESPONDENT is subject to a separate administrative penalty of up to
6 \$5,000.00, for each occasion upon which they have hauled waste tires without a valid Waste Tire
7 Hauler Registration. 14 CCR section 18464 allows the imposition of penalties ranging from \$100.00 to
8 \$5,000.00 per load as an unregistered hauler.

9 22. Pursuant to 14 CCR section 18464, CALRECYCLE may assess a penalty between five
10 hundred (\$500) and one thousand (\$1,000) for each count of unregistered hauling where the amount of
11 tires hauled was between forty one (41) and one hundred (100) tires; and a penalty between one
12 thousand (\$1,000) and two thousand (\$2,000) for each count of unregistered hauling where the amount
13 of tires hauled was greater than one hundred (100) tires.

14 23. Pursuant to 14 CCR section 18464, CALRECYCLE may assess a penalty between \$100
15 and \$500 for each count of failing to permanently affix the tire hauler decal to the lower right hand
16 corner of the windshield.

17 24. In setting an appropriate administrative penalty for RESPONDENT, as required by 14
18 CCR section 18465, CALRECYCLE has taken into consideration the following factors:

- 19 (1) The nature, circumstances, extent, and gravity of the violation.
- 20 (2) Evidence that the violation was willful or negligent.
- 21 (3) The good or bad faith exhibited by the party.
- 22 (4) History of violation of the same or similar nature.
- 23 (5) The extent to which the party has cooperated with the Department in remediating or injury
24 caused by his or her violation.
- 25 (6) The extent that the party has mitigated or attempted to mitigate any damage or injury caused
26 by his or her violation.
- 27 (7) Evidence of any financial gain resulting from the violation.
- 28 (8) Such other matters as justice may require.

1 25. Accordingly, CALRECYCLE hereby requests that an administrative penalty be assessed
2 against RESPONDENT in the sum of six thousand five hundred dollars.

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4 **RIGHT TO HEARING**

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6 You are hereby notified that pursuant to the provisions of 14 California Code of Regulations
7 section 18466 and Government Code section 11505 that you are entitled to a hearing to refute the
8 allegations against you contained in this Statement of Issues for Denial of Waste and Used Tire Hauler
9 Registration and Waste Tire Hauler Administrative Penalties. **If you wish to have a hearing on this**
10 **matter, you must complete and return the enclosed REQUEST FOR HEARING to our Legal**
11 **Office within 15 days of receipt of this notice. Failure to complete and return the REQUEST FOR**
12 **HEARING within 15 days will be deemed a waiver of your rights to a hearing.**

13 Pursuant to the above referenced Public Resources Code and Government Code sections,
14 discovery requests by any party must be made within thirty days after the service of this Administrative
15 Complaint for Denial of Waste and Used Tire Hauler Registration and Waste Tire Hauler Administrative
16 Penalties.

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18 Dated this 8 day of November, 2012.

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22 HEATHER L. HUNT
23 Staff Counsel III
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